

### **REMARKS/ARGUMENTS**

Claims 1-22 were pending in this application. According to the December 3, 2003 Office Action, claims 1-22 were finally rejected. Applicants have amended claims 1, 9 and 20. Accordingly, claims 1-22 are under consideration. Applicants maintain that the amendments do not introduce any new matter. Support for the amendments in claim 1 may be found in all the examples of the specification where it is clear that the layers of the coating of the product of the present invention can contain additional material beyond 1,6-GPS and 1,1-GPM.

#### **Rejection under 35 U.S.C. §112, Second Paragraph**

The Examiner rejected claims 9 and 20 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

In response, Applicants have amended claim 9 to delete the term "another." Furthermore, Applicants also amended claim 20 to replace the term, "the chewing gum" with the term --a chewing gum--. Accordingly, the Examiner is kindly requested to withdraw this rejection.

#### **Rejection under 35 U.S.C. §103**

The Examiner rejected claims 1-7 and 9-21 under 35 U.S.C. §103(a) as allegedly being unpatentable over Reed et al. in view of Japanese Patent 04121162. The Examiner also rejected claim 8 under 35 U.S.C. §103(a) as allegedly being unpatentable over Reed et al. in view of the Japanese reference as applied to claims 1-7, 9, 17-19, 27-34 and 36, and further in view of Herzing et al. The Examiner further rejected claim 22 under 35 U.S.C. §103(a) as allegedly being unpatentable over Reed et al. in view of the Japanese reference as applied to claims 1-7, 9, 17-19, 27-34 and 36, and further in view of Serpelloni et al.

In response, Applicants respectfully traverse the Examiner's rejection. Nonetheless, claim 1 has been amended to make it clear that the layers of the coating of the product of the present invention can contain additional material beyond 1,6-GPS and 1,1-GPM.

The Examiner argues, that Reed et al. would teach a 1,6-GPS enriched coated food product. Applicants respectfully disagree. Reed teaches a hard-coated chewing gum with a coating which may be made up of hydrogenated isomaltulose. Hydrogenated isomaltulose is merely a 1:1 mixture of 1,6-GPS and 1,1-GPM, which is exactly what the present invention avoids. The present invention relates to a mixture of 1,6-GPS and 1,1-GPM, wherein the ratio of 1,6-GPS to 1,1-GPM is higher than 57:43 and up to 99:1. This teaching is not contained in Reed et al. and is also not suggested. It is also not true that Reed et al. is silent on the amount of 1,6-GPS in the coating as it is clear from Reed that the 1,6-GPS in the coating of the chewing gums of Reed is present in form of hydrogenated isomaltulose, which, as explained before, is a 1:1 mixture of 1,6-GPS and 1,1-GPM. Therefore, the amount of 1,6-GPS in the coating is disclosed in Reed et al., namely disclosed to be present in amounts of 47-53% 1,6-GPS, i.e. in an almost 1:1 ratio to 1,1-GPM.

Reed et al. refers on page 5, last paragraph, to hydrogenated isomaltulose in various patent documents which themselves indicate that 1,6-GPS and 1,1-GPM are present in hydrogenated isomaltulose in a nearly equimolar (that means 1:1) ratio.

The Japanese abstract does not relate at all to a 1,6-GPS and 1,1-GPM mixture. It refers obviously to a 1,6-GPS and isomaltulose mixture, which is completely different from a 1,6-GPS and 1,1-GPM mixture. Isomaltulose is a sugar while 1,6-GPS and 1,1-GPM are sugar alcohols. Thus, the combination of Reed and the Japanese reference does not lead to the present invention, since nowhere it is disclosed, that in a mixture of 1,1-GPM and 1,6-GPS the 1,6-GPS must be enriched to reach the claimed beneficial effects for the claimed coated products.

To demonstrate the unexpected advantages of having the ratio of 1,6-GPS to 1,1-GPM is higher than 57:43 and up to 99 when compared to a ration of about 1:1, Applicants submit herewith a Declaration under 37 C.F.R. §1.132 comparing physical properties of a product prepared according to Example 1 of Reed et al. (i.e. approximately 1:1 ratio of 1,6-GPS over 1,1-GPM versus a product of the present invention being identical to the Reed product except for

using enriched Isomalt containing 70 mol% 1,6-GPS and 30 mol% 1,1-GPM in the coating. As indicated in said Declaration, increasing the ratio of 1,6-GPS over 1,1-GPM to more than 57 to 43 resulted in significantly improved sensorial attributes, texture profile and visual appearance. Accordingly, the above cited references either alone or in combination could not render the present invention obvious and the Examiner is kindly requested to withdraw this rejection.

In light of the foregoing, it is respectfully submitted that this application is now in condition to be allowed and the early issuance of a Notice of Allowance is respectfully solicited. If there are any issues or amendments the Examiner wishes to discuss, the Examiner is encouraged to contact the undersigned.

EXPRESS MAIL CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee (mail label #EV342602398US) in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 3, 2004:

Dorothy Jenkins

Name of Person Mailing Correspondence



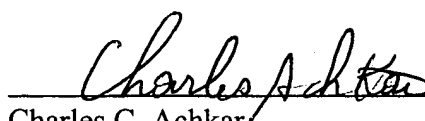
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Date of Signature

RCF/CCA:lac

Respectfully submitted,



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